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Texas Commission on Environmental Quality
Commissioners' Offices

April 16, 2008

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BY

[Signature]

CHIEF CLERKS OFFICE

2008 APR 24 AM 9:51

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Chairman Buddy Garcia
Texas Commission on Environmental Quality, MC-100
P.O. Box 13087
Austin, TX 78711-3087

Re: *Application for Air Permit Renewal by APAC-Texas, Inc. to Authorize Continued Operation of Hot Mix Asphalt Plant Permit No. 8597*

Dear Chairman Garcia:

I am writing you directly because Frisco citizens in the area of the APAC Facility have raised significant health concerns with your Executive Director's staff over many months. Those concerns focused on APAC's burning of waste oil as a fuel source. Despite a TCEQ effort in 2004 "to characterize maximum pollutant concentrations", the TCEQ did not test for phenols, cresols, or reduced sulfur compounds. In fact, there has never been any actual stack testing done at the APAC Facility.

This shortfall in Facility specific testing and continued citizen concerns resulted in the City of Frisco initiating an independent investigation of the Facility in the absence of a thorough TCEQ investigation. That investigation was conducted in 2006 by Mr. Dan Wittliff, TCEQ's former Chief Engineer. That investigation, while not definitive, supported citizen concerns related to the APAC Facility. The City also initiated a complete review of TCEQ records related to the APAC Facility. The results of that review are disturbing, to say the least.

On March 27, 1981, the APAC Facility (then Gohmann Asphalt) received its construction permit (C-8597) based on burning "sweet natural gas", liquid petroleum gas, diesel, or No. 2 fuel oil. In October 1981, before the plant was finished, Gohmann asked for authorization to burn No. 4 fuel oil as the primary fuel because of increased costs of fuels already approved. The APAC Facility received its first operating permit in 1983. That permit was issued without any site-specific stack testing to determine the quality and quantity of emissions at the APAC Facility. That permit did not allow the use of waste oil as a fuel source. The APAC permit was renewed in 1998. Subsequent to that renewal, APAC applied for, and received without any public input, an amendment in 1999 that allowed the use of waste oil as a fuel source, again without any site specific stack testing.

MW

Waste oil is a well-known source of a wide range of air contaminants when used as fuel. In fact, the 1999 permit amendment specified 12 waste oil constituents of concern that must be tested for prior to being accepted at the APAC facility for use as fuel. Mr. Wittliff's investigation, and previous TCEQ investigations, documented that APAC has failed to perform the waste oil source component testing required in their current permit. The quantity of such contaminant releases at the APAC Facility is currently unknown because stack testing has never been done at the APAC Facility located in Frisco.

APAC's air quality permit is now up for renewal even though it has never been subjected to technical scrutiny as would any other source in this non-attainment area. Through its environmental attorney, Mr. Kerry Russell, the City has requested an administrative hearing on the APAC permit renewal. One or more individual citizens have also requested a hearing to allow full public input and technical review. Those hearing requests have been supported by all elected officials in this area. Our citizens are now being advised by your Executive Director's staff that there may not be a hearing and the permit can be renewed by executive decree. That is simply not acceptable given the large population in the immediate area of the APAC Facility.

Based on the history of the APAC Facility located in Frisco, and its long outdated operating permit, the City believes the APAC permit review should not be an uncontested administrative renewal. Your soon to be retired Executive Director's recent past history in regard to such administrative renewals should not be allowed to continue in this situation. In the complete absence of any historic site-specific technical review of this facility, the APAC permit review should be processed as a new source review.

The City of Frisco and its citizens are looking to you for leadership on this issue.

Sincerely,



E. Michael Simpson, Mayor

Cc: Commissioner Brian Shaw
Commissioner Larry Soward
Senator Florence Shapiro
Representative Ken Paxton
Ms. Phyllis Cole, Collin County Commissioner, Precinct 1
Mr. Dan Wittliff
Mr. Kerry Russell
Ms. Deborah R. Murphey, APAC

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